

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS  
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

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**JOANN L FRATZKE**  
Claimant

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**APPEAL 22A-UI-19383-B2-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/15/20**  
**Claimant: Appellant (1)**

Iowa Code § 96.3(7) – Overpayment of LWAP Benefits  
Iowa Code § 96.16(4) – Offenses and Misrepresentation  
871 IAC r. 24.28(6) – Previously Adjudicated Issue

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the November 23, 2022 (reference 06) Iowa Workforce Development (“IWD”) unemployment insurance decision which concluded the claimant was overpaid LWAP benefits because claimant failed to accurately report earnings while concurrently filing weekly claims for unemployment insurance benefits.

The parties were properly notified of the hearing. A telephone hearing was held on December 29, 2022. The claimant participated personally. The administrative law judge took official notice of the claimant’s unemployment insurance benefits records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Did IWD correctly determine that the claimant was overpaid LWAP benefits, and was the overpayment amount correctly calculated?

Did IWD properly impose a penalty based upon the claimant’s misrepresentation?

Whether the claim was previously adjudicated?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim for unemployment insurance benefits with an effective date of March 15, 2020.

The claimant previously received unemployment insurance decisions finding claimant to have been ineligible to unemployment benefits, and to have been overpaid benefits. Said reference 01 through 05 decisions alleged claimant to have not only been ineligible to receive benefits, and overpaid benefits, but also to have committed fraud in filing for benefits thereby

disqualifying her from further receipt of benefits until repayment of benefits were paid and, in some instances, applying a 15% penalty to the overpayment of benefits received. Claimant appealed each of these fact finder decisions.

Hearings were set for each of the five reference numbers and hearings were held on each on November 3, 2022. Claimant did not timely appear for the hearings and all appeals were dismissed, including claimant's appeal of her overpayment of the \$1,800.00 LWAP payment. In case 22A-17608-AR-T the administrative law judge remanded the matter to the benefits bureau of Iowa Workforce Development for review of whether the imposition of the 15% administrative penalty was appropriate in this matter.

The reference 06 decision in this matter issued by IWD on November 23, 2022 did not include the imposition of the 15% administrative penalty, but otherwise did find the same \$1,800.00 overpayment of LWAP benefits for the six-week period between July 26, 2020 and September 5, 2020. Said decision referred to the reference 01 decision upheld in 22A-UI-17603-AR-T finding claimant not able and available to work, and stated further that claimant is ineligible to receive unemployment benefits until said overpayment is repaid.

#### **REASONING AND CONCLUSIONS OF LAW:**

In this matter, the evidence has established that the claim was previously adjudicated by decision of 22A-UI-17608-AR-T. After adjudication of the issue, the only remaining matter of concern was whether claimant could be held subject to a 15% penalty in addition to her overpayment. IWD has not requested a 15% penalty be added to the LWAP overpayment and the administrative law judge know of no legal authority for imposing said penalty.

Iowa Code section 96.3(7) provides, in pertinent part:

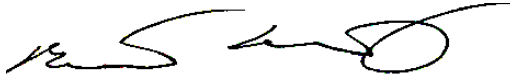
**7. Recovery of overpayment of benefits.**

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

The administrative law judge concludes the calculated overpayment was correct. Accordingly, the claimant shall be responsible for repayment of a sum equal to the amount of the LWAP overpayment.

**DECISION:**

The November 23, 2022 (reference 06) unemployment insurance decision is affirmed. The claimant was overpaid LWAP benefits in this matter.



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**Blair Bennett** | Administrative Law Judge II  
Iowa Department of Inspections & Appeals

January 4, 2023  
Decision Dated and Mailed

bab/scn

**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://eab.iowa.gov)**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. *There is no filing fee to file an appeal with the Employment Appeal Board.*

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may file a petition for judicial review in district court.

2. If you do not file an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at [www.iowacourts.gov/efile](http://www.iowacourts.gov/efile). *There may be a filing fee to file the petition in District Court.*

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

**UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:**

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en [www.iowacourts.gov/efile](http://www.iowacourts.gov/efile). *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.